

**IN THE UNITED STATES DISTRICT COURT****FOR THE DISTRICT OF SOUTH CAROLINA**

<b>CLIFFORD ANTHONY BRADLEY,</b>	)	Civil Action No. 9:14-2393-TMC-BM
	)	
Plaintiff,	)	
	)	
v.	)	<b>REPORT AND RECOMMENDATION</b>
	)	
<b>CAROLYN W. COLVIN,</b>	)	
<b>COMMISSIONER OF SOCIAL</b>	)	
<b>SECURITY ADMINISTRATION,</b>	)	
	)	
Defendant.	)	
	)	

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The pro se Plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 405(g). The Commissioner filed an Answer along with a transcript of record on December 10, 2014. (Court Docket Nos. 20 & 21). The Local Rules of this District state that, after the filing of an Answer, a plaintiff has thirty (30) days in which to file a written brief. Local Civil Rule 83.VII.04 DSC. Therefore, Plaintiff's brief was due on or before January 12, 2015. However, the pro se Plaintiff failed to file a brief or present any argument for why the decision by the Commissioner is not supported by substantial evidence.

In an Order filed January 13, 2015, Plaintiff was advised that it appeared he did not wish to continue to prosecute this action, and was given seven (7) days from the date of that Order in which to file a brief. Plaintiff was further specifically warned, in bold type, that his **failure to do**



**so may result in a recommendation that this case be dismissed for failure to prosecute. See Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b).**

However, notwithstanding the extension granted and the specific warning and instructions as set forth in the Court's Order, the Plaintiff has failed to respond, or to contact the Court in any way. Based on the foregoing, the undersigned finds that Plaintiff meets all of the criteria for dismissal under Chandler Leasing Corp. V. Lopez, 669 F.2d 929 (4<sup>th</sup> Cir. 1982).<sup>1</sup> Accordingly, it is recommended that this action be dismissed with prejudice for lack of prosecution. **See Davis, 588 F.2d at 70; Rule 41(b), Fed.R.Civ.P.**

**The Clerk shall mail this Report and Recommendation to Plaintiff at his last known address. If the Plaintiff notifies the Court within the time set forth for filing objections to this Report and Recommendation that he wishes to continue with this case and provides a Plaintiff's brief, the Clerk is directed to vacate this Report and Recommendation and return this file to the undersigned for further handling.** If, however, no objections are filed, the Clerk shall forward this Report and Recommendation to the District Judge for disposition. Ballard v. Carlson, 882 F.2d 93, 95 (4<sup>th</sup> Cir. 1989), cert. denied sub nom, Ballard v. Volunteers of America, 493 U.S. 1084 (1990) [Magistrate Judge's prior explicit warning that a recommendation of dismissal would result from plaintiff failing to obey his order was proper grounds for the district court to

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<sup>1</sup>He is personally responsible for proceeding in a dilatory fashion, the Defendant is suffering prejudice due to having to expend time and resources on a case in which the Plaintiff is unresponsive, and no sanctions other than dismissal appear to exist as the Plaintiff is indigent (and therefore not subject to monetary sanctions) and he has otherwise failed to respond to Court filings despite Court orders requiring him to do so. Lopez, 669 F.2d at 920.



dismiss suit when plaintiff did not comply despite warning].<sup>2</sup>

The parties are referred to the Notice Page attached hereto.



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Bristow Marchant  
United States Magistrate Judge

January 21, 2015  
Charleston, South Carolina

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<sup>2</sup> After a litigant has received one explicit warning as to the consequences of failing to timely comply with an order of a Magistrate Judge, and has failed to respond to that order, the district court may, under Fed.R.Civ.P. 41(b), dismiss the complaint based upon the litigant's failure to comply with that court order. See Simpson v. Welch, 900 F.2d 33, 35-36 (4th Cir.1990); see also Ballard, 882 F.2d at 95-96 [holding that district court's dismissal following an explicit and reasonable warning was not an abuse of discretion].

### **Notice of Right to File Objections to Report and Recommendation**

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4<sup>th</sup> Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk  
United States District Court  
Post Office Box 835  
Charleston, South Carolina 29402

**Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation.** 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

